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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|----------------------------|------------------------|
| 10/807,160 | 03/24/2004 | James Huang | 040140 | 6474 |
| 23850 7590 08/03/2007 KRATZ, QUINTOS & HANSON, LLP 1420 K Street, N.W. Suite 400 WASHINGTON, DC 20005 | | | EXAMINER FORTUNA, ANA M | |
| | | | ART UNIT 1723 | PAPER NUMBER |
| | | | MAIL DATE 08/03/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|-------------------------------|------------------------------|--|
| Office Action Summary | Application No. 10/807,160 | Applicant(s) HUANG ET AL. | |
| | Examiner Ana M. Fortuna | Art Unit 1723 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5 and 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-3, 5, 6 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,852,223 (Huang et al) in view of Minor et al. (US 6,015,610) or Henn et al (US 5,026,591). The membrane material of claims 1-3, and 5-6 are substantially the same material off claims 1-10, the diffuse reflectance of light is not part of the limitations of the claim in the patent ('223), but is considered to be inherent of the resulting membrane, because both the membrane of the present invention and the membrane of patent '233 are made by the same process conditions. The reinforcing material is not part of the claims in the patent ('223).

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Minor et al ('610) teach laminating or supporting biaxially expanded microporous membranes on a fabric, woven or non-woven materials made from a polymer material, such as, polyester (abstract, column 8, lines 49-67); the PTFE material has a reflectance to provide a diffuse reflectivity equal or greater than 93 % (see claim 15).

Henn et al ('591) also teach biaxially expanded PTFE microporous material bonded to a fabric material, e.g. spun-bonded polyamide (Nylon), and polyester (see column 4, lines 41-48; column 11, lines 61-68, and column 12, lines 1-2 and lines 23-31).

It would have been obvious to one skilled in this art at the time the invention was made to select cloth of the prior art, such as the ones suggested by Minor et al and Henn et al to produce laminated products for various use and distinct functionalities, e.g.

perselective membrane, as suggested in Henn et al (column 7, lines 4-22), and Minor et al (column 7, lines 18-21, column 8, lines last paragraph, bridging column 9, first paragraph).

The membrane thickness of claims 3 and 6 is covered by claims 5-6 of patent '223.

Claim 5 is covered by the discussion above.

The biaxial direction (stretching) is part of the claim in patent '223, however, product by process are products, and the final membrane structure is covered by the claims in the patent.

The patent ('233) teaches biaxial direction.

3. Rejection over co-pending application 10/808,446 is withdrawn based on the amendment and the Terminal Disclaimer filed on the copending application to avoid rejection over this current application.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana M. Fortuna whose telephone number is (571) 272-1141. The examiner can normally be reached on 9:30-6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Sample can be reached on (571) 272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ana M Fortuna/
Primary Examiner, A. U. 1723

AF
July 31, 2007